

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 IO-13 ACDA-12 CIAE-00 DODE-00 PM-05
H-01 INR-10 L-03 NSAE-00 NSC-05 PA-01 SP-02
SS-15 ICA-11 TRSE-00 /091 W
-----058288 260510Z /17/43

R 251712Z JUL 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0578
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY MOSCOW
USMISSION USNATO
USMISSION USBERLIN

C O N F I D E N T I A L SECTION 01 OF 02 BONN 13600

C O R R E C T E D C O P Y (TEXT--PARA ONE)

E.O. 11652: GDS
TAGS: PGOV, BQG
SUBJECT: NORTHERN AUTOBAHN HAMBURG-BERLIN:
LEGAL MODALITIES

REF: A) BONN 12219
B) BONN 13335 (EXDIS)

1. SUJMARY. THE FRG HAS REQUESTED IN THE BONN GROUP
THAT WE PROVIDE THE DEPARTMENT'S VIEWS REGARDING AN
ALLIED MANDATE TO THE FRG FOR THE NEGOTIATION OF THE
NEW NORTHERN AUTOBAHN, CONFIRMATION THAT THE NEW
AUTHOBAHN IS COVERED BY THE QA AND THE FRG/GDR TRANSIT
AGREEMENT (TTA) AND AN APPROACH TO THE SOVIETS ONCE
THE AUTOBAHN AGREEMENT IS COMPLETED. THE EMBASSY'S
VIEW IS THAT WE SHOULD INDICATE WILLINGNESS TO PROVIDE
THE FIRST TWO, IF THE FRG SO WISHES, BUT THAT AN AP-
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PROACH TO THE SOVIETS IS UNDESIRABLE. ACTION REQUESTED:
SEE PARAGRAPH 3. END SUMMARY.

1. IN A BRIEF BONN GROUP DISCUSSION OF THE LEGAL
MODALITIES FOR THE NORTH AUTOBAHN ON JULY 21, THE US
REP REQUESTED CONFIRMATION OF HIS UNDERSTANDING THAT
NONE OF THE ALLIED REPS HAD EXPRESSED RESERVATIONS IN

PRIOR BONN GROUP DISCUSSIONS ABOUT AN ALLIED MANDATE TO THE FRG FOR THE NEGOTIATIONS ON THE NORTHERN AUTO-BAHN OR FOR ALLIED CONFIRMATION THAT THE AUTOBAHN IS WITHIN THE TRANSIT REGIME (REF A). FRENCH REP RICHARD AND THE UK LEGAL ADVISER (EATON) CONFIRMED THAT THIS WAS THE CASE.

2. ON REVIEWING THE FRG REPORT OF THE EARLIER BONN GROUP DISCUSSION FRG REP VON BRAUNMUEHL FOUND THAT, IN BRIEF-

ING VAN WELL FOR THE QUADRIPARTITE LUNCHEON (REF B), THE FRG REPS HAD MISTAKENLY TOLD VAN WELL THAT THE ALLIED RESERVATIONS ABOUT AN APPROACH TO THE SOVIETS ALSO EXTENDED TO A MANDATE AND CONFIRMATION TO BE GIVEN

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INFO OCT-01 ISO-00 IO-13 ACDA-12 CIAE-00 DODE-00 PM-05
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R 251712Z JUL 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0579
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
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C O N F I D E N T I A L SECTION 02 OF 02 BONN 13600

THE FRG. ALTHOUGH NONE OF THE ALLIED REPS HAD YET RECEIVED INSTRUCTIONS FROM CAPITALS, THE US REP REMARKED ON A PERSONAL BASIS THAT SINCE WE ARE DEALING "AMONG FRIENDS," IT WOULD APPEAR REASONABLE FOR THE ALLIES TO RESPOND AFFIRMATIVELY TO WHATEVER THE FRG

MIGHT REQUEST IN THE WAY OF A MANDATE OR CONFIRMATION. HE SAID HE SAW NO LEGAL NEED FOR A MANDATE, HOWEVER, AND THAT INsofar AS THE CONFIRMATION WAS INVOLVED, THE ALLIES WOULD BE LOCKED IN POLITICALLY IN ANY CASE TO MAINTAIN THAT AUTOBAHN TRAFFIC WAS COVERED BY THE QA AND TTA. THEREFORE, WE WOULD PRESUMABLY NOT OBJECT TO PROVIDING THE TYPE OF CONFIRMATION THAT THE FRG REQUESTED. RICHARD AND EATON AGREED WITH THIS VIEW.

3. COMMENT: THE FRG HAS ASKED THAT THE ALLIES GIVE INSTRUCTED VIEWS ON THE SUBJECT OF AN ALLIED APPROACH
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TO THE SOVIETS IN ORDER TO BRING THE NORTHERN AUTOBAHN AGREEMENT UNDER THE QA AND TTA. FOR THE REASONS IN REF A, WE BELIEVE THIS IS NEITHER NECESSARY NOR DESIRABLE AND REQUEST THAT WE BE AUTHORIZED TO CON-

FIRM THAT THIS IS THE DEPARTMENT'S VIEW. ON THE OTHER HAND, WE RECOMMEND THAT WE BE INSTRUCTED TO INFORM THE FRG THAT WE SEE NO OBJECTION, IF THE FRG WISHES IT, TO GIVING THE FRG A MANDATE TO NEGOTIATE THE AUTOBAHN AGREEMENT OR TO GIVING THE FRG WRITTEN CONFIRMATION THAT THE AGREEMENT, ONCE COMPLETED, IS COVERED BY THE QA AND THE TTA. IN BOTH CASES, HOWEVER, WE RECOMMEND THAT WE BE AUTHORIZED TO INFORM THE FRG THAT WE DO NOT CONSIDER THE MANDATE OR CONFIRMATION LEGALLY NECESSARY BUT ARE PREPARED TO GIVE THEM IF, FOR LEGAL OR POLITICAL REASONS, THE FRG SO REQUESTS.

4. ACTION REQUESTED: SEE PARAGRAPH3. MEEHAN

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